

ANALYSIS OF ORIGINAL BILL

Franchise Tax Board

Author: Escutia Analyst: Rachel Coco Bill Number: SB 17
Related Bills: See Legislative History Telephone: 845-4328 Introduced Date: December 6, 2004
Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: FTB Include Question On Returns For Legal Entities & Publicly Traded Companies Regarding Change In Ownership

SUMMARY

This bill would require the Franchise Tax Board (FTB) to report the name and address of an entity that either fails to respond or responds affirmatively to the real property change of ownership question on its income or franchise tax return. The report would be made to the Board of Equalization (BOE).

This bill makes numerous other changes to property tax law. This analysis will only discuss the bill to the extent it impacts FTB.

PURPOSE OF THE BILL

According to the author's office, the purpose of this bill is to provide BOE with information regarding entities that either fail to respond or respond affirmatively to the property ownership question so that a determination can be made as to whether there was a transfer of property.

EFFECTIVE/OPERATIVE DATE

As a tax levy, this bill would be effective immediately upon enactment. The bill specifies an operative date of January 1, 2006.

POSITION

Pending.

ANALYSIS

STATE LAW

Current state law requires FTB to place a check box on the return for certain entities to indicate if there has been any change of ownership of the entity for purposes of determining a change in the ownership of the taxpayer's real property during the year. This requirement applies for partnerships, limited liability companies (LLCs), banks, and corporations. If an entity answers "yes" to the question, FTB sends the names and addresses of the entity to BOE.

Board Position:

<input type="checkbox"/> S	<input type="checkbox"/> NA	<input type="checkbox"/> NP
<input type="checkbox"/> SA	<input type="checkbox"/> O	<input type="checkbox"/> NAR
<input type="checkbox"/> N	<input type="checkbox"/> OUA	<input checked="" type="checkbox"/> PENDING

Department Director

Date

Gerald H. Goldberg

1/13/05

THIS BILL

This bill would remove the current property ownership question and replace it with the following:

“If the legal entity or publicly traded company owns or leases real property in California, have any ownership interests in the legal entity or publicly traded company been transferred since the last change in ownership of the real property directly or indirectly controlled by the legal entity or corporation?”

This bill also would require FTB to report the names and addresses of the legal entity or publicly traded company, and if known, the names and addresses of the ownership interest transferees, to BOE if the entity either fails to respond or responds affirmatively to the change of ownership question.

IMPLEMENTATION CONSIDERATIONS

Implementing this bill could be accomplished during the department’s normal annual updates.

LEGISLATIVE HISTORY

SB 17 (Escutia, 2003/2004) contained language similar to this bill. SB 17 failed to pass out of the legislature by the constitutional deadline.

OTHER STATES’ INFORMATION

The states surveyed include *Florida, Illinois, Massachusetts, Michigan, Minnesota, and New York*. These states were selected due to their similarities to California’s economy, business entity types, and tax laws. These states income tax returns did not have a question related to the transfer of ownership of property.

FISCAL IMPACT

This bill would not impact the department’s programs and operations.

ECONOMIC IMPACT

Since provisions of this bill would re-assess real estate property values of publicly traded companies, the property tax deduction taken by those companies could increase, resulting in reduced business income tax revenues. However, because the department doesn’t collect information on property tax deductions claimed by publicly traded companies, the actual baseline revenue impact of this proposal is unknown.

LEGISLATIVE STAFF CONTACT

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